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Attorneys for Defendant  
HILTON HOTELS CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DOANE ATWOOD, individually and on behalf  
of Class of Persons similarly situated,

Plaintiffs,

v.

CITY OF SAN RAFAEL, CHIEF MATTHEW  
ODETTO, OFFICER ROLEGIO LEON,  
OFFICER ROBERT HENKEL, OFFICER  
RICHARD CLARY, OFFICER AARON  
PIOMBO, EMBASSY SUITES HOTEL, and  
DOES I through X, inclusive,

Defendants.

Case No. CV 08 5002 EMC

**STIPULATION AND [PROPOSED]  
ORDER EXTENDING TIME FOR  
ALL DEFENDANTS TO RESPOND  
TO PLAINTIFF'S COMPLAINT**

**RECITALS**

**WHEREAS**, Plaintiff DOANE ATWOOD ("Plaintiff") filed this action against  
defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO  
LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON  
PIOMBO AND HILTON HOTEL CORPORATION (erroneously sued as "Embassy Suites  
Hotel") ("Defendants") on or about November 3, 2008;

**WHEREAS**, Plaintiff requested Defendant HILTON HOTELS CORPORATION waive  
formal service on or about November 25, 2008 by mailing a copy of the Complaint and waiver of

1 service to counsel for Defendant HILTON HOTELS CORPORATION;

2 **WHEREAS**, Defendant HILTON HOTEL CORPORATION'S responsive pleading to the  
3 Complaint is due on or about January 24, 2009;

4 **WHEREAS**, Defendants and CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO,  
5 OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY,  
6 and OFFICER AARON PIOMBO have not yet been served with the Complaint;

7 **WHEREAS**, the Parties have agreed to attend mediation before the Honorable Charles A.  
8 Legg (Ret.) prior to Defendants filing responsive pleadings in this matter;

9 **WHEREAS**, there have been no prior time modifications in this matter; and

10 **WHEREAS**, the change requested herein would require continuance of the Initial Case  
11 Management Conference, currently set for January 21, 2009, and related deadlines:

12 **AGREEMENT**

13 Pursuant to Civil Local Rule 6-2, the parties hereby stipulate as follows:

14 Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER  
15 ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER  
16 AARON PIOMBO AND HILTON HOTEL CORPORATION will provide Plaintiff DOANE  
17 ATWOOD with a waiver of formal service of the Summons and Complaint by January 15, 2009.

18 The Parties will Mediate this matter before Honorable Charles A. Legg (Ret.) by  
19 March 15, 2009.

20 If Mediation is unsuccessful, Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW  
21 ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD  
22 CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION respond to  
23 Plaintiff DOANE ATWOOD'S Complaint by March 30, 2009.

24 The Initial Case Management Conference, currently set for January 21, 2009, will be  
25 continued according to this Court's timeline.

26 ///

27 ///

1 In so stipulating, Defendants expressly reserve their rights to object to the jurisdiction of  
2 a Magistrate Judge, and request reassignment to a District Judge.

3  
4 Respectfully submitted,

5  
6 Date: January \_\_, 2009

BRUCE NICKERSON

7  
8 By \_\_\_\_\_

9 Bruce W. Nickerson  
10 Attorney for Plaintiff  
DOANE ATWOOD

11  
12 Date: January \_\_, 2009

JACKSON LEWIS, LLP

13  
14 By \_\_\_\_\_

15 Jamerson C. Allen  
16 Cortney L. McDevitt  
Attorneys for Defendant  
HILTON HOTELS CORPORATION

17 Dated: January 6, 2009

18 BERTRAND, FOX, & ELLIOT

19  
20 By  \_\_\_\_\_

21 Tom Bertrand  
22 Attorney for Defendants  
CITY OF SAN RAFAEL, CHIEF  
MATTHEW ODETTO, OFFICER  
23 ROLEGIO LEON, OFFICER  
ROBERT HENKEL, OFFICER  
24 RICHARD CLARY, and OFFICER  
AARON PIOMBO

1 In so stipulating, Defendants expressly reserve their rights not to consent to the  
2 jurisdiction of a Magistrate Judge, and request reassignment to a District Judge.

3  
4 Respectfully submitted,

5  
6 Date: January 7, 2009

BRUCE NICKERSON

7  
8 By Bruce W. Nickerson

Bruce W. Nickerson  
Attorney for Plaintiff  
DOANE ATWOOD

9  
10  
11 Date: January 7, 2009

JACKSON LEWIS LLP

12  
13 By Jamerson C. Allen

Jamerson C. Allen  
Cortney L. McDevitt  
Attorneys for Defendant  
HILTON HOTELS CORPORATION

14  
15  
16  
17 Dated: January 7, 2009

BERTRAND, FOX & ELLIOT

18  
19 By \_\_\_\_\_

Tom Bertrand  
Attorney for Defendants  
CITY OF SAN RAFAEL, CHIEF  
MATTHEW ODETTO, OFFICER  
ROLEGIO LEON, OFFICER  
ROBERT HENKEL, OFFICER  
RICHARD CLARY, and OFFICER  
AARON PIOMBO

**PROPOSED ORDER**

Based on the foregoing, and good cause so appearing, the Court hereby orders:

1. Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION will provide Plaintiff DOANE ATWOOD with a waiver of formal service of the Summons and Complaint by January 15, 2009.

2. The Parties will Mediate this matter before Honorable Charles A. Legg (Ret.) by March 15, 2009.

3. If Mediation is unsuccessful, Defendants CITY OF SAN RAFAEL, CHIEF MATTHEW ODETTO, OFFICER ROLEGIO LEON, OFFICER ROBERT HENKEL, OFFICER RICHARD CLARY, OFFICER AARON PIOMBO AND HILTON HOTEL CORPORATION respond to Plaintiff DOANE ATWOOD'S Complaint by March 30, 2009.

4. The Initial Case Management Conference, currently set for January 21, 2009, is hereby continued to April 15, 2009 at 1:30 p.m. A Joint CMC statement is due April 8, 2009.

5. The dates set forth in this Court's Order Setting Initial Case Management Conference and ADR Deadlines are continued accordingly.

6. Defendants' rights to object to the jurisdiction of the Magistrate Judge and request reassignment to a District Judge are reserved.

**IT IS SO ORDERED.**

DATED: January 13, 2009

